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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,094	10/01/2001	Brian Gaudet	0023-0040	4704
44987	7590	03/14/2005	EXAMINER	
HARRITY & SNYDER, LLP 11240 WAPLES MILL ROAD SUITE 300 FAIRFAX, VA 22030			HUYNH, KIM NGOC	
		ART UNIT		PAPER NUMBER
		2182		

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/966,094	GAUDET, BRIAN	
Examiner	Art Unit		
Kim Huynh	2182		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12/9/04.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 9-24 is/are allowed.

6)  Claim(s) 1,2,7 and 8 is/are rejected.

7)  Claim(s) 3-6 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 09 December 2004 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Yu (US 2001/0012288 A1).

Yu discloses (Figs. 6-7) a device for inserting escape character into a multi-byte wide data stream comprising: a gap inserter component configured to receive blocks (data frames, see Fig. 10 received by TX FIFO 18 and par. 78, 98-104) of data from the multi-byte wide data stream (data from physical layer interface 21), the gap insertion component rearranges the bytes of a block of data stream by inserting gaps into the blocks at locations adjacent to predetermined bytes (transparency processing or octet stuffing, [0201-0202, a gap is inserted for each occurrence of any code identified by 0x72d or 0x7e), one octet code is replaced by two octet code); and an escape character inserter inserting escape characters (a character 0x5d or 0x5e is inserted for each occurrence of any code identified by 0x72d or 0x7e, so each code 0x72d or 0x7e will be encoded as 0x72d,0x5d or 0x7e, 0x5e [0201-0204]).

Claim 2, Yu discloses the predetermined bytes are bytes having a value coincident with predefined control characters (par. 166 and 178).

Claim 7, the predefined control character is used to delineate between information of the data stream (start/end Flags).

Claim 8, Yu discloses the escape character insert logically exclusive OR each of the bytes that have a value coincident with the predefined control characters with a constant (par. 178, 202-204, constant is 0x20).

#### ***Allowable Subject Matter***

Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-24 are allowed.

The allowable subject matter(s) is(are) as recited in previous office action,

#### ***Response to Arguments***

Applicant's arguments filed 12/9/04 have been fully considered but they are not persuasive.

Applicant argues that Yu does not disclose inserting an escape character in each of the gap inserted by the gap insertion component wherein the gap inserted is adjacent to predetermined bytes.

The examiner disagrees with this argument. As shown in paragraphs 201-204, Yu discloses that a single octet code is replaced by two octet sequence for each of the identified by 0x72 or 0x7d (adjacent to a predetermined byte), and an escape character inserter inserting escape characters (a character 0x5d or 0x5e is inserted for each occurrence of any code identified by 0x72d or 0x7e, so each code 0x72d or 0x7e will be encoded as 0x72d, 0x5d or 0x7e, 0x5e. This passage was identified in the previous office action in the rejection of claim 8; the rejection of claim 1 has been elaborated in order to assist the applicant with the understanding of the Yu invention as it relates to the claimed invention. Yu's system operated in the exact manner as disclosed in his own disclosure [0004-0007].

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Huynh whose telephone number is (571) 272-4147.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim Huynh  
Primary Examiner  
Art Unit 2182

KH  
3/8/05